

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 354**

**Senators Eklund, Cafaro**

**Cosponsors: Senators Yuko, Hite, Lehner**

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**A BILL**

To amend sections 3318.02, 3318.024, and 3318.30, 1  
to enact section 3318.036, and to repeal section 2  
3318.32 of the Revised Code to require the 3  
School Facilities Commission to give priority 4  
for project funding to school districts that 5  
resulted from certain types of transfers, 6  
mergers, or consolidations and demonstrate an 7  
efficient use of facility space as determined by 8  
the Commission. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3318.02, 3318.024, and 3318.30 be 10  
amended and section 3318.036 of the Revised Code be enacted to 11  
read as follows: 12

**Sec. 3318.02.** (A) For purposes of sections 3318.01 to 13  
~~3318.32~~3318.20 of the Revised Code, the Ohio school facilities 14  
commission shall periodically perform an assessment of the 15  
classroom facility needs in the state to identify school 16  
districts in need of additional classroom facilities, or 17  
replacement or reconstruction of existent classroom facilities, 18

and the cost to each such district of constructing or acquiring 19  
such additional facilities or making such renovations. 20

(B) Based upon the most recent assessment conducted 21  
pursuant to division (A) of this section, the commission shall 22  
conduct on-site visits to school districts identified as having 23  
classroom facility needs to confirm the findings of the periodic 24  
assessment and further evaluate the classroom facility needs of 25  
the district. The evaluation shall assess the district's need to 26  
construct or acquire new classroom facilities and may include an 27  
assessment of the district's need for building additions or for 28  
the reconstruction of existent buildings in lieu of constructing 29  
or acquiring replacement buildings. 30

(C) (1) Except as provided in division (C) (2) of this 31  
section, on-site visits performed on or after May 20, 1997, 32  
shall be performed in the order specified in this division. The 33  
first round of on-site visits first succeeding the effective 34  
date of this amendment, May 20, 1997, shall be limited to the 35  
school districts in the first through fifth percentiles, 36  
excluding districts that are ineligible for funding under this 37  
chapter pursuant to section 3318.04 of the Revised Code. The 38  
second round of on-site visits shall be limited to the school 39  
districts in the first through tenth percentiles, excluding 40  
districts that are ineligible for funding under this chapter 41  
pursuant to section 3318.04 of the Revised Code. Each succeeding 42  
round of on-site visits shall be limited to the percentiles 43  
included in the immediately preceding round of on-site visits 44  
plus the next five percentiles. Except for the first round of 45  
on-site visits, no round of on-site visits shall commence unless 46  
eighty per cent of the districts for which on-site visits were 47  
performed during the immediately preceding round, have had 48  
projects approved under section 3318.04 of the Revised Code. 49

(2) Notwithstanding division (C) (1) of this section, the commission may perform on-site visits for school districts in the next highest percentile to the percentiles included in the current round of on-site visits, and then to succeeding percentiles one at a time, not to exceed the twenty-fifth percentile, if all of the following apply:

(a) Less than eighty per cent of the districts for which on-site visits were performed in the current round, and in any percentiles for which on-site visits were performed in addition to the current round pursuant to this division, have had projects approved under section 3318.04 of the Revised Code;

(b) There are funds appropriated for the purpose of sections 3318.01 to 3318.20 of the Revised Code that are not reserved and encumbered for projects pursuant to section 3318.04 of the Revised Code;

(c) The commission makes a finding that such available funds would be more thoroughly utilized if on-site visits were extended to the next highest percentile.

(D) Notwithstanding divisions (B) and (C) of this section, in any fiscal year, the commission may limit the number of districts for which it conducts on-site visits based upon its projections of the moneys available and moneys necessary to undertake projects under sections 3318.01 to ~~3318.32~~ 3318.20 of the Revised Code for that year.

**Sec. 3318.024.** In the first year of a capital biennium, any funds appropriated to the Ohio school facilities commission for classroom facilities projects under this chapter in the previous capital biennium that were not spent or encumbered, or for which an encumbrance has been canceled under section 3318.05

of the Revised Code, shall be used by the commission only for 79  
projects under sections 3318.01 to 3318.20 of the Revised Code, 80  
subject to appropriation by the general assembly. 81

In the second year of a capital biennium, any funds 82  
appropriated to the Ohio school facilities commission for 83  
classroom facilities projects under this chapter that were not 84  
spent or encumbered in the first year of the biennium and which 85  
are in excess of an amount equal to half of the appropriations 86  
for the capital biennium, or for which an encumbrance has been 87  
canceled under section 3318.05 of the Revised Code, shall be 88  
used by the commission only for projects under sections 3318.01 89  
to 3318.20, ~~3318.32~~, 3318.351, 3318.364, 3318.37, 3318.371, 90  
3318.38, and 3318.40 to 3318.46 of the Revised Code, subject to 91  
appropriation by the general assembly. 92

Sec. 3318.036. (A) For purposes of this section: 93

(1) "Eligible school district" is a city, local, or 94  
exempted village school district that satisfies both of the 95  
following conditions: 96

(a) The district resulted from one of the following that 97  
became effective between July 1, 2013, and June 30, 2018: 98

(i) A transfer of all of the territory of one school 99  
district to another school district in accordance with section 100  
3311.22, 3311.231, 3311.24, or 3311.38 of the Revised Code; 101

(ii) The merger of two or more districts in accordance 102  
with section 3311.25 of the Revised Code; 103

(iii) The creation of a new local school district from all 104  
of one or more local school districts in accordance with section 105  
3311.26 of the Revised Code; 106

<u>(iv) The consolidation of two or more school districts</u>	107
<u>under section 3311.37 of the Revised Code.</u>	108
<u>(b) The district has demonstrated to the Ohio school</u>	109
<u>facilities commission an efficient use of facility space,</u>	110
<u>including a reduction in the number of buildings used by</u>	111
<u>students and administrative staff.</u>	112
<u>(2) "Basic project cost" and "required percentage of the</u>	113
<u>basic project cost" have the same meanings as in section 3318.01</u>	114
<u>of the Revised Code.</u>	115
<u>(B) Notwithstanding anything to the contrary in this</u>	116
<u>chapter:</u>	117
<u>(1) If the commission determines that a district is an</u>	118
<u>eligible school district, the commission shall give that</u>	119
<u>district first priority for funding for a project under sections</u>	120
<u>3318.01 to 3318.20 of the Revised Code as such funds become</u>	121
<u>available, regardless of the district's percentile rank under</u>	122
<u>section 3318.011 of the Revised Code. If the district results</u>	123
<u>from a transfer, merger, consolidation, or creation of a new</u>	124
<u>local district that takes effect prior to the effective date of</u>	125
<u>this section, the district's portion of the basic project cost</u>	126
<u>shall be the required percentage of the basic project cost based</u>	127
<u>on the percentile ranking of the district that was transferred,</u>	128
<u>merged, consolidated, or existed prior to the creation of the</u>	129
<u>new district that has the lowest three-year average adjusted</u>	130
<u>valuation per pupil, as calculated under section 3318.011 of the</u>	131
<u>Revised Code, on the date that the transfer, merger,</u>	132
<u>consolidation, or creation of the new district became effective.</u>	133
<u>(2) If an eligible school district is given priority under</u>	134
<u>division (B) (1) of this section, the commission may reduce that</u>	135

district's portion of the basic project cost by twenty-five 136  
percentage points from the portion determined under section 137  
3318.032 of the Revised Code or, if the district results from a 138  
transfer, merger, consolidation, or creation of a new local 139  
district that takes effect prior to the effective date of this 140  
section, from the portion determined under division (B) (1) of 141  
this section. At no time, however, shall that district's portion 142  
of the basic project cost be less than five per cent. 143

(3) If an eligible school district is given priority under 144  
division (B) (1) of this section, the commission may reduce that 145  
district's portion of the basic project cost by ten percentage 146  
points from the portion determined under section 3318.032 of the 147  
Revised Code or, if the district results from a transfer, 148  
merger, consolidation, or creation of a new local district that 149  
takes effect prior to the effective date of this section, from 150  
the portion determined under division (B) (1) of this section, if 151  
the district's project satisfies the following conditions: 152

(a) The project involves construction of a building on 153  
land owned by a state institution of higher education, as that 154  
term is defined in section 3345.011 of the Revised Code, and the 155  
commission approves the project. 156

(b) The district and the state institution of higher 157  
education enter into a written agreement regarding the continued 158  
use of the institution's land by the district, and the 159  
commission approves the agreement. 160

(c) On the date that the district and the state 161  
institution of higher education enter into the written agreement 162  
described in division (B) (3) (b) of this section, the state 163  
institution of higher education is participating in the college 164  
credit plus program established under Chapter 3365. of the 165

Revised Code. 166

At no time, however, shall that district's portion of the 167  
basic project cost be less than five per cent. 168

The reduction of the district's portion of the basic 169  
project cost described in division (B) (3) of this section may be 170  
in addition to a reduction of the district's portion of the 171  
basic project cost under division (B) (2) of this section. 172

(C) Except as provided in division (B) of this section, a 173  
district's project undertaken pursuant to this section shall be 174  
subject to all other requirements in sections 3318.01 to 3318.20 175  
of the Revised Code. 176

**Sec. 3318.30.** (A) There is hereby created the Ohio school 177  
facilities commission as an independent agency of the state 178  
within the Ohio facilities construction commission, which is 179  
created under section 123.20 of the Revised Code. The Ohio 180  
school facilities commission shall administer the provision of 181  
financial assistance to school districts for the acquisition or 182  
construction of classroom facilities in accordance with ~~sections~~ 183  
~~3318.01 to 3318.32 of the Revised Code~~ this chapter. 184

The Ohio school facilities commission is a body corporate 185  
and politic, an agency of state government and an 186  
instrumentality of the state, performing essential governmental 187  
functions of this state. The carrying out of the purposes and 188  
the exercise by the Ohio school facilities commission of its 189  
powers conferred by ~~sections 3318.01 to 3318.32 of the Revised~~ 190  
~~Code~~ this chapter are essential public functions and public 191  
purposes of the state. The Ohio school facilities commission 192  
may, in its own name, sue and be sued, enter into contracts, and 193  
perform all the powers and duties given to it by ~~sections~~ 194

~~3318.01 to 3318.32 of the Revised Code, this chapter,~~ but it does 195  
not have and shall not exercise the power of eminent domain. In 196  
its discretion and as it determines appropriate, the Ohio school 197  
facilities commission may delegate to any of its members, 198  
executive director, or other employees any of the Ohio school 199  
facilities commission's powers and duties to carry out its 200  
functions. 201

(B) The Ohio school facilities commission shall consist of 202  
seven members, three of whom are voting members. The voting 203  
members of the Ohio school facilities commission shall be the 204  
director of the office of budget and management, the director of 205  
administrative services, and the superintendent of public 206  
instruction, or their designees. Of the nonvoting members, two 207  
shall be members of the senate appointed by the president of the 208  
senate, and two shall be members of the house of representatives 209  
appointed by the speaker of the house. Each of the appointees of 210  
the president, and each of the appointees of the speaker, shall 211  
be members of different political parties. 212

Nonvoting members shall serve as members of the Ohio 213  
school facilities commission during the legislative biennium for 214  
which they are appointed, except that any such member who ceases 215  
to be a member of the legislative house from which the member 216  
was appointed shall cease to be a member of the Ohio school 217  
facilities commission. Each nonvoting member shall be appointed 218  
within thirty-one days of the end of the term of that member's 219  
predecessor. Such members may be reappointed. Vacancies of 220  
nonvoting members shall be filled in the manner provided for 221  
original appointments. 222

Members of the Ohio school facilities commission shall 223  
serve without compensation. 224



After the initial nonvoting members of the Ohio school 225  
facilities commission have been appointed, the Ohio school 226  
facilities commission shall meet and organize by electing voting 227  
members as the chairperson and vice-chairperson of the Ohio 228  
school facilities commission, who shall hold their offices until 229  
the next organizational meeting of the Ohio school facilities 230  
commission. Organizational meetings of the Ohio school 231  
facilities commission shall be held at the first meeting of each 232  
calendar year. At each organizational meeting, the Ohio school 233  
facilities commission shall elect from among its voting members 234  
a chairperson and vice-chairperson, who shall serve until the 235  
next annual organizational meeting. The Ohio school facilities 236  
commission shall adopt rules pursuant to section 111.15 of the 237  
Revised Code for the conduct of its internal business and shall 238  
keep a journal of its proceedings. Including the organizational 239  
meeting, the Ohio school facilities commission shall meet at 240  
least once each calendar quarter. 241

Two voting members of the Ohio school facilities 242  
commission constitute a quorum, and the affirmative vote of two 243  
members is necessary for approval of any action taken by the 244  
Ohio school facilities commission. A vacancy in the membership 245  
of the Ohio school facilities commission does not impair a 246  
quorum from exercising all the rights and performing all the 247  
duties of the Ohio school facilities commission. Meetings of the 248  
Ohio school facilities commission may be held anywhere in the 249  
state and shall be held in compliance with section 121.22 of the 250  
Revised Code. 251

(C) The Ohio school facilities commission shall file an 252  
annual report of its activities and finances with the governor, 253  
speaker of the house of representatives, president of the 254  
senate, and chairpersons of the house and senate finance 255

committees.	256
(D) The Ohio school facilities commission shall be exempt	257
from the requirements of sections 101.82 to 101.87 of the	258
Revised Code.	259
(E) The Ohio school facilities commission may share	260
employees and facilities with the Ohio facilities construction	261
commission.	262
<b>Section 2.</b> That existing sections 3318.02, 3318.024, and	263
3318.30 and section 3318.32 of the Revised Code are hereby	264
repealed.	265